

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD.

SPECIAL CIVIL APPLICATION No 6379 of 1998

For Approval and Signature :

Hon'ble MR. JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the Judgment ?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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MEGHRAJ V DAKSHINA  
VERSUS  
STATE OF GUJARAT

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Appearance:

None present for the Petitioner  
MR SP HASURKAR for Respondent No.1.  
None present for other Respondents

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CORAM : MR JUSTICE S.K. KESHOTE  
Date of decision: 15/08/99

C.A.V. JUDGMENT

1. Perused the special civil application and heard the learned counsel for the respondents.

2. This special civil application has come up for preliminary hearing in the Court on 13th October, 1998. Looking to the nature of this case, this court thought it proper to give notice to the respondents returnable on 12th November, 1998. On 12th November, 1998, the matter was adjourned to 4th December, 1998, on which date, the matter was adjourned to 15th December, 1998 in view of the sick note of Mr. Y.S. Lakhani, Advocate, who put appearance for the respondents. Thereafter, this matter was adjourned from time to time. On 6th March, 1999 this matter has been admitted and Rule was made returnable on 14th June, 1999. The matter has come up on Board on 2-7-1999 and this Court has given direction to the respondent No.7 to file reply on or before 22nd July, 1999. Total contribution of all the respondents is that nobody even cared to file reply to the special civil application. Not only this, except for respondent No.1, the counsel are not present for other respondents.

3. The petitioner was appointed on 11-8-1967 after his selection as Shop Inspector in the office of the erstwhile Bantwa Nagar Panchayat. Under the resolution of Bantwa Nagar Panchayat taken in its meeting held on 13th December, 1987 and 29th January, 1988 it has been decided to give the benefit of Desai Pay Commission to its employees w.e.f. 1-1-1973. The pay of the petitioner was revised to Rs.425-700. Bantwa Nagar Panchayat came to be transformed into Bantwa Municipal Borough w.e.f. 15th April, 1994. Though this order has been passed, what the petitioner stated that the same has not been implemented. The petitioner retired on 30th April, 1994 on attaining the age of superannuation. The petitioner's pension papers were not promptly processed. In December, 1997, the petitioner stated that he was given an amount of Rs.15000/- on ad hoc basis towards arrears. The petitioner filed a writ petition before this Court which is pending for the difference of pay to which he was eligible on account of revision of pay.

4. This petition has been filed by the petitioner against the action of the respondents to withhold the payment of gratuity and other retirement benefits payable to him for a period of four years. It is the case of the petitioner that the petitioner's pension papers were forwarded to the concerned authorities and thereafter he repeatedly requested for early payment of pensionary benefits and amount of gratuity but nothing has been done. On 4th April, 1998, Sub Treasury

Officer, Manager was informed by the Additional Treasury Officer, Junagadh that the pension and G.P.F. as well as gratuity of the petitioner has been approved. In pursuance of the said communication, the petitioner was paid Rs.37260/towards gratuity and Rs.28,875/- towards pension on or about 21st April, 1998.

5. The petitioner in the special civil application prayed for the direction to the respondents to pay to him interest of Rs.17,885/- on the amount of gratuity of Rs.37,260/- which is not paid to him for a period of four years and Rs.15,441/- as interest on the pensionary benefits also not paid to him for the said period.

6. The petitioner has not been paid the retirementary dues for about four years. It is not the case of the respondents that this delay in disbursing of the amount of gratuity and pension to the petitioner is as a result of any fault on the part of the petitioner. The respondents have not given reply to the special civil application, as stated earlier, and the averments made in the special civil application stand uncontroverted. So the averments made by the petitioner in the special civil application are to be taken to be admitted.

7. In the case of Dr. Uma Agarwal vs. State of U.P. & Anr., Writ Petition (Civil) No.771/95 decided on 22nd March, 1999, their Lordships of the Hon'ble Supreme Court held that in a case where there is a clear example of departmental delay in processing, finalising and payment of amount of retirementary benefits, which is not excusable, the interest on the amount of retirementary benefits has to be awarded to the retired person.

8. In the case in hand, it is clear that because of unexplained departmental delay the petitioner could not get the substantial amount of retirementary benefits for four years. The respondents have not furnished any explanation much less a satisfactory explanation for this delay. In the absence of any explanation much less a satisfactory explanation this departmental delay is taken to be not excusable. This matter is squarely covered by the decision of the Apex Court in the case of Dr. Uma Agrawal vs. State of U.P. & Anr. (supra) and on the amount of retirementary benefits, the petitioner deserves to be given interest for delay in payment thereof.

9. In the result, this special civil application is

allowed and the respondents are directed to pay to the petitioner interest on the amount of gratuity i.e. Rs.37260/- and on the amount of pension i.e. Rs.28,675/at the rate of 12% per annum for delayed payment thereof w.e.f 1st May, 1994 till the date of payment thereof. The amount of interest at the rate of 12% p.a. as ordered by this Court payable on these two amounts has to be calculated by the respondent No.1 within a period of one month from the date of receipt of writ of this order and to pay the same within 15 days next. The respondent No.1 has to pay this amount to the petitioner. However, the respondent No.1 is at liberty to hold an inquiry to find out which of the authority or officer is responsible for this delay in payment of retirement benefits to the petitioner and the amount of interest found payable and paid to the petitioner has to be recovered from that authority and/or officer. The respondent No.1 is further directed to pay Rs.2000/- as costs of this petition to the petitioner. This costs may also be recovered from the defaulting authority and/or officer by the respondent No.1. Rule is made absolute in the aforesaid terms.

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